

Legislative Analysis



BROWNFIELD TAX CREDITS

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Senate Bill 437 (S-1) as reported from House committee
Sponsor: Sen. Wayne Schmidt
House Committee: Tax Policy
Senate Committee: Economic and Small Business Development
Complete to 6-9-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 437 would amend section 437 of the Michigan Business Tax Act (MBTA), which deals with brownfield tax credits, to extend the time within which a development project in Detroit could be completed and still be eligible, without penalty, for preapproved brownfield tax credits.¹

Under section 437(10) of the act, if a multiphase project is not completed within 10 years after the date of the taxpayer's preapproval letter, the taxpayer must pay back to the state an amount equal to all the credits claimed and assigned for all components of the project, and no credits based on that project can be claimed from then on.

The bill would create an exception so that a qualified taxpayer that was approved for a credit based on a multiphase project by Resolution 2010-219 of the Michigan Economic Growth Authority (MEGA) Board² and issued a preapproval letter on June 10, 2011, would have until September 14, 2023, to complete that project and claim the credit without penalty.

Resolution 2010-219 provided a credit to Woodward Offices, LLC, for an eligible property in the City of Detroit on December 14, 2010. Resolution 2020-046 amended the scope of that two-phase project located at 3750 Woodward Avenue.³

Currently, to claim the credit without penalty, this project would have to be completed before June 11, 2021.

MCL 208.1437

¹ While the Michigan brownfield tax credit program no longer issues new awards, existing credits are still honored; these credits began under the Single Business Tax and were continued under the Michigan Business Tax, and certain "certificated" credits can continue to be claimed under the MBT, even with the advent of the Corporate Income Tax, until they expire. However, the MBTA is repealed effective for tax years beginning after December 31, 2031.

² Executive Order 2012-9 abolished the MEGA Board and transferred its powers and duties to the board of directors of the Michigan Strategic Fund, which adopted Resolution 2020-046 on April 14, 2020.

³ https://www.michiganbusiness.org/4aef70/globalassets/documents/msf-board/msf-board-packets/april-special-meeting-packet_web.pdf

FISCAL IMPACT:

As written, the bill would likely shift some credits claimed under the MBT from FY 2020-21 to FY 2022-23. In that event, the bill would have no direct impact on general fund revenue since the credits not claimed in FY 2020-21 would be claimed in a future year.

However, in absence of the bill, if those credits would not be claimed at all, general fund revenue would increase by approximately \$10.0 million in the current fiscal year.

POSITIONS:

A representative of Real Estate Developers, LLC, testified in support of the bill. (6-9-21)

The City of Detroit indicated support for the bill. (6-9-21)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.